HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION NO: 23054 of 2007

Dated: 01-11-2007

Between:

Vaka Sai Babu and 9 others.

..... PETITIC

AND

The Revenue Divisional Officer/
Land Acquisition Officer,
Tenali, Guntur District.

.....RESPONI

HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 23054 of 2007

O R D E R:

This writ petition is filed for a writ of Mandamus to declare the orders da 08-2007 and 23-08-2007 whereby the request of the petitioners for payr enhanced compensation made under Section 28-A of the Land Acquisition Ac (for short 'the Act') has been rejected as illegal and arbitrary.

Certain lands of the petitioners were acquired by the respondents notification dated 17-12-1987 issued under Section 4(1) of the Act. The Acquisition Officer passed award dated 17-09-1988 fixing the market value of tl at Rs.27,500/- per acre. Certain persons whose lands were also acquired un same notification, approached the Court of Subordinate Judge, by way of LAOP of 1990 and the said OP was disposed of by the judgment dated 27-03-1995, v the market value was enhanced to Rs.40,000/- per acre. On the applications the petitioners under Section 28-A of the Act, the Land Acquisition Officer re-fi compensation in terms of the judgment of the civil Court in LAOP. No.65 of 19 paid the same to the petitioners. Subsequently, the claimants in the sa approached this Court by way of AS.No.796 of 1995 which was disposed of Court on 20-03-2006 whereunder the compensation was enhanced to Rs.60,0(acre. On coming to know about the said judgment, the petitioners again appr respondent No.1-Land Acquisition Officer for further re-determination compensation in terms of the judgment of this Court. These applications havin rejected by respondent No.1-Land Acquisition Officer, the present writ petition is

Heard Sri Ch.Ravindra Babu, learned counsel for the petitioners and the l Assistant Government Pleader for Land Acquisition.

The question that arises for consideration in this writ petition is whet petitioners are entitled to further enhancement of compensation following the ju of this Court in A.S.No.796 of 1995.

Section 28-A of the Act, enables a person whose land is acquired and approached the civil Court seeking enhancement of the compensation, to ap the Collector for re-determination of the amount of compensation on the basi award passed by the Court in respect of the lands acquired under the

notification.

It is necessary in this context to extract Section 28-A of the Act hereunder

> **Section 28-A: Re-determination of the amount of compensation on the basis of the award of the Court:** (1) Where in an award under this Part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector under Section 11, the persons interested in all the other land covered by the same notification under Section 4, sub-section (1) and who are also aggrieved by the award of the award by the award of the Collector may, notwithstanding that they had not made an application to the Collector under Section 18, by written application to the Collector within three months from the date of the award of the court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court:
> Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.
>
> (2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and made an award determining the amount of compensation payable to the applicants.
>
> (3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the court and the provisions of Sections 18 to28 shall, so far as may be, apply to such reference as they apply to a reference under Section 18.

A reading of the above reproduced provision shows that the person seel determination of the compensation is entitled to get the re-determination compensation on the basis of the amount of compensation awarded by the (emphasis applied)

Section 3(d) of the Act defines “Court” as a Principal Civil Court of jurisdiction, unless the appropriate Government has appointed (as it is empowered to do) a special judicial officer within any specified local limits to the functions of the Court under this Act.

The definition of the Court, does not take within its sweep an appellate Co

I am, therefore, of the view that a person is entitled for re-determinatio

compensation in terms of the award passed by the Principal civil Court of
jurisdiction or in a case where the Government appointed a Special Judicial
the award passed by such Officer. In no case, a further enhancement made
appellate Court is not covered by the sweep of Section 28-A of the Act. Th
rejection of the applications of the petitioners by respondent No.1 does not suf
any legal infirmity warranting interference of this Court under Article 226
Constitution of India.

In the result, the writ petition is dismissed. No costs.

C.V.NAGARJUNA RE

Date: 01-11-2007
KLP